



**CITY OF DANBURY**  
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DANBURY, CONNECTICUT 06810

PLANNING COMMISSION  
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**MINUTES**  
**JUNE 15, 2011**

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The regular meeting was called to order by Chairman Arnold Finaldi Jr. at 7:30PM.

Present were Arnold Finaldi Jr., Kenneth Keller, Joel Urice and Alternates Helen Hoffstaetter and Fil Cerminara. Also present was Associate Planner Jennifer Emminger.

Absent were John Deeb and Edward Manuel. Chairman Finaldi noted that there is a vacant alternate position since Mr. Blaszkowski resigned.

Chairman Finaldi asked Mr. Cerminara to take Mr. Deeb's place and Ms. Hoffstaetter to take Mr. Manuel's place for the items on tonight's agenda.

Mr. Keller made a motion to add the March 16, 2011 minutes to the agenda. Ms. Hoffstaetter seconded the motion and it was passed unanimously. Mr. Keller then made a motion to accept the January 5, 2011, January 19, 2011, February 16, 2011, March 2, 2011 & March 16, 2011 minutes. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

Chairman Finaldi announced that the second item under New Business; the Application for Floodplain Permit for the "Ives Trail Terminus Improvements" would be moved to number two under the Old Business on tonight's agenda.

Chairman Finaldi added that the item listed under Referrals (Petition to Amend the Zoning Regulations) would not be discussed this evening.

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**NO NEW PUBLIC HEARINGS**

**CONTINUATION OF PUBLIC HEARINGS:**

Sugar Hollow Associates LLC – Application for Revised Site Plan in acc. w/Sec. 10.D.7. of the Zoning Regulations for SE #663 originally approved 10/1/08 for "The Shops at Marcus Dairy", Backus Ave. & Sugar Hollow Rd. (#G17002 & #G17019).

Dainius Virbickas, PE from Artel Engineering described the changes they made to the plans to satisfy the concerns of the Departmental reviews. Attorney Marcus said they have a Health Dept. report recommending a summary ruling but that has more to do with the

floodplain permit. He said he was hoping to close and act on this because they want to submit to the State Traffic Commission (STC) in time for their Friday meeting. AF said not new – certainly understand

Chairman Finaldi asked if there was anyone to speak in opposition to this and there was no one.

Mrs. Emminger said revised plans were received this afternoon and she is hoping that the storage trailer was removed. She said Construction Services, Engineering and Planning Dept. comments could all be conditioned in the resolution. She said she has asked the applicant on the record to agree to remove the storage trailer as well as adding the sidewalk that Mr. Urice had requested.

Mr. Keller made a motion to close the public hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously. Ms. Hoffstaetter then made a motion to move this matter to number three under the Old Business on tonight's agenda. Mr. Keller seconded the motion and it was passed unanimously.

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Plumtrees Plaza LLC – Application for Special Exception for use (Grocery Store) which (combined with other uses on the site) will generate over 500 vehicle trips per day – 59 & 63 Newtown Rd. (#L12018, #L12021 & portion of #L12014) – SE #714.

Benjamin Doto PE said they had made some minor changes to plan and also had submitted the photos that were requested. He reiterated that the applicant really would like to defer the trees and sidewalks due to the fact that Newtown Rd. is a State road and work is going to be done to it right in front of this parcel. Mr. Urice said for the record that he had listened to the tapes of the previous meeting. He then said he is not comfortable with the idea of an open-ended deferral on this issue. Mr. Doto pointed out that Attorney Jaber had said they would like it to be for three years from the issuance of their Certificate of Occupancy. He added that he is working with the City Traffic Engineer and the applicant on finalizing the details of the intersection. It is their number one priority.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and there was no one.

Mr. Urice made a motion to continue the public hearing. Mr. Keller seconded the motion and it was passed unanimously.

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C & W Development LLC – Application for Special Exception for Sewage Treatment Facility (“Coffey Environmental Solutions”) in the IG-80 Zone – 46 Beaver Brook Rd. (#K12176) – SE #710.

Chairman Finaldi said unfortunately the microphones again are not working this evening so he asked that everyone try to speak loudly so all can hear.

Attorney Jaber started out by handing out copies of a zoning map with certain areas. This was designated **Exhibit E**. Attorney Jaber said Bill Coffey Jr., one of the applicants is present if anyone wants to ask him questions. He then submitted four photos of the

property at 40 Beaver Brook Rd. (**Exhibit F**) and two photos of Pembroke Pumping trucks to show size of trucks (**Exhibit G**). He also submitted copies of four Police Accident reports (from June 2010 to June 2011) for this intersection (**Exhibit H**). The next document was a website memo containing addresses for the State Dept. of Environmental Protection (DEP) and the two different types of permits they have been talking about. This was designated **Exhibit I**. He said this business will take residential sewage only from domestic sources and it will be tested before they take it. They know they cannot let it spill over the property lines. The neighbors at previous meeting said there is an odor in air. There are three possible culprits; the landfill, the water pollution control facility (sewage treatment plant) or the regional transfer station (the former AWD). The last two are open air operations versus this which will be indoors in sealed containers. He then submitted a copy of Sec. 22a-174-23 from the State DEP Regulations titled Control of Odors. This was designated **Exhibit J**.

Benjamin Doto said the area of this building that will be devoted to this business has expanded since the previous meeting. There will now be 9,000 sq.ft. dedicated to the sewage treatment facility and the remainder will be used for the contractors' office. The reason for this is to allow more room to do what they want to. They will meet with Haestadt Engineering and David Day, the Superintendent of Public Utilities next week to determine what impact this will have on the City. They know what they want to discharge and are going to discuss how the City wants to handle this.

Attorney Jaber said they have obtained a video of Liquid Assets Disposal in Wheeling, WV. It is a larger scale facility that uses a similar processing system. This facility allows four trucks at a time, but their intention is to have no more than two at any time. Mrs. Emminger said before they play it, can they provide us with a copy for our files. Attorney Jaber said they would. Bill Coffey Jr. came forward to start the video but unfortunately there was no voice because the microphones were not working. After trying several different things, they found that they could not get any voice projection. The Chairman asked Mr. Coffey if he would be able to bring the video back for the next meeting when hopefully the audio will be working.

George Federico, from the TDM Company, said they offer solutions for virtually any air or odor problems. They design a treatment solution that is best for the specific problem. Much of their work is with industrial facilities and municipalities. He handed out a folder on this business (**Exhibit K**). The proposed facility will store septage and extract the water which will be sent to an offsite treatment facility. The remaining dry solids will be sent to the landfill for disposal. Polymers may be added to the sludge to assist in the dewatering process. The proposal for this site includes a two part system. The first part is vent connection with a manifold that will draw the vapor from the tanks and keep them under a vacuum system. The second part is a vacuum and vapor containment system designed to be used around the trucks once they enter the building. This stuff smells and depending on how you treat it, it can smell differently. All odors must be captured or they will get out and smell bad. Mr. Keller asked where he has successful systems that can be used as references. Mr. Federico said most of the other locations are much larger and have open tops.

Chairman Finaldi asked if there was anyone to speak in opposition to this application. Before calling on the first person, he asked the following of all speakers: (1) Please try to confine the comments to the application as submitted. (2) Please do not repeat things you have already said, all of the meetings have been tape recorded, and your comments are

included in the minutes of those meetings. And if necessary, we can listen to the tapes at any time to hear these comments again.

Bob Willis, said he owns Berkshire Refrigeration which is in the building behind the applicant's business, Pembroke Pumping. He said the applicant grew up in the family business and they have been around Danbury for a long time. He said this is not a big deal and that this is clean equipment compared to the municipal sewage plan and AWD.

Peter Amaral, owns 18 Beaver Brook Rd., said not really in favor of against, just wanted to say that the Coffey's have an excellent business reputation. When they do something they always do a top notch job.

Dave Bonan, 77 Deer Hill Ave., said not in favor or again but wondered if this would mean more trucks would be coming in. He asked how this would affect the Still River.

Chairman Finaldi listed the guidelines for those speaking in opposition. "Please confine comments to the application as submitted. Do not repeat yourself. If you said it at a previous meeting, it has been recorded. Please state your name and address when you first approach the microphone. Direct all comments and questions to the Commission. After all of the opposition speaks, then the Commission will ask the applicant's representatives to address the comments and answer the questions." He added that the hearing will again be continued. He then called for the opposition.

Patricia Taylor, 53 Beaver Brook Rd., asked who determines how bad the smell is. How long does it have to be there before it can be complained about?

Rute Mendes, said she is an attorney speaking on behalf of the Portuguese Cultural Center which is located at 55 Sandpit Rd. She said allowing this business to operate at this location will have a crippling effect on their business and others. She said the applicant did not answer many of the questions that were asked. They attempted to show they will control the odor but it is not something that can be controlled. How do they intend to control it? How many hours a day will they have to be there to accommodate the 65 trucks per day?. How do they test for pH without exposing the odor? She said the Portuguese Club benefits the greater Danbury area and they believe this will have a negative impact on their business.

Rich Chiarella, 118 Clapboard Ridge Rd., said he is a local hauler and their math does not work. He said he thinks the applicant is doing this to drive the others out of business and to save themselves money. Chairman Finaldi reminded him that this is a land use board and they can only consider land use issues. He said the carbon filter has to be handled just right or it will cause a fire. He added that many haulers go out of town to unload their stuff because it is cheaper out of town.

Chairman Finaldi asked Attorney Jaber to explain why they said it could be 65 trips per day and then later said the most they will have is 17 trips per day. Attorney Jaber said the previous site plan approval estimated 65 vehicle movements in and out of the site, and this proposal did not change that number. He said when they spoke about how long it would take to offload these trucks; they also estimated that there could be no more than 17 of them on an given day.

Emilius Otile, did not give his address. He said his septic pumping business is as large as Pembroke Pumping and if they can get this approved it will open the door for others.

Jim Kelly 38 Beaver Brook Rd., thanked Mrs. Emminger for her detailed observations on this project. Question on original letter from DEP which said only domestic sewerage will be accepted under their permit. They said they will accept domestic and commercial sewerage. Is that the same? Chairman Finaldi said he had understood them to say that waste generated from a commercial office building would be considered the same as residential waster. He said that Mr. Federico's comments about moving air for biohazards confused him so he will have to check out the technical details.

Mary Jane Schwebler, 10 Broad St. said on the City website, the Planning & Zoning page says "The mission of the Department of Planning and Zoning is to protect and improve the city's neighborhoods, business centers, community resources and natural environment while planning for sustainable development that will enhance the quality of life of all our residents." She then said that this plant will not enhance anyone's quality of life except Mr. Coffey's.

Nunzio Sasso, 40 Beaver Brook Rd., , said they are going to have pressurized building that even on a good day, is going to smell. He added that there is no way they are going to keep two huge doors closed all the time. He rambled about the other neighbors, the odor, and the sewer line. Chairman Finaldi asked him is he was in the garbage business. Mr. Sasso said he is in the carting business but can use his trucks for garbage. He spoke about the different businesses he is involved with but added that he does not bother his neighbors.

Lily Samrith, 1 East Broad St., said they just moved in here and her child has asthma, so she is concerned about the impact this will have on the air quality. Mr. Keller said he had asked about this issue and expects them to provide some info on it.

Alex Moldonado, 1 Beaver Brook Rd., said there already are three potential things that can cause smell, so why add a fourth. He said no one has mentioned that if business at this site is good, he will want to expand this use. He said the windows now are disgusting with the dirt, etc., never mind the smell and the noise. He too mentioned truck traffic on this road as early as 5:30 AM.

Robert Taylor, 53 Beaver Brook Rd. said he works for the City in the public works dept. They have assorted bugs and mice at the treatment plant now so how can they guarantee that the same will not be on this property. He said no one has even mentioned the contractor's garage that is also supposed to be located on this site.

Rodney Smith, 11 Edgewater Circle, said he is bothered by the noise already. Businesses are not supposed to make noise before 7 AM, but often it starts as early as 5:30 AM.

Donna Durnell, 1 Beaver Brook Rd., said the treatment facility in West Virginia seems to be located in the middle of nowhere. She said there already are odor issues; she talks to AWD almost every day and they tell her they are working on it. She asked if these chemical will be dispersed into the City water. And also pointed out this is on the Still River, and it also could affect the wildlife.

Charles Smolowitz, 13 Edgewater Circle, Asked what the timeline is if there is a problem at the site. How quickly will someone respond and who determines when it is a problem.

Phil Chiarella, 20 Old Mill Plain Rd., said he is owner/operator of Danbury Septic Service, which is his family's business. He said the applicant has a NY State haulers permit which allows them to haul from NY into CT, so someday this plant could be treating waste from New Jersey. This is a monopoly business and this will affect City revenues and it could also drive out many of the smaller haulers. He added that the current City facility is open to people during the daytime. They do treat the air there, just not effectively. He added that they also have a testing program but is very random with no rhyme or reason. Since we already have a sewage treatment plan, why not just use that one.

Rajendra Gursahaney, 3 Edgewater Circle, said he is very familiar with this kind of plant, as he builds them as well as ventilation systems. If the stack is 25 ft high the odor will rise. He expressed concern about the equipment and asked what happens when there is a power outage or breakdown. He said on a really hot day, there will be an awful stench. He asked how they will clean the grit catcher without releasing odor. He said the information that has been presented is extremely simplistic. He runs treatment plants and this is not the right place

Robert Figueras, 15 Edgewater Circle, said he is also an engineer. He asked if there are any other towns that have both a municipal and a private sewage treatment plant. He added that when looking at something like this from an engineering point of view, one has to assume there will always be an accident and consider how to remedy that. This will impact the quality of life.

Tom Saadi, 24 Tobins Ct., said he also is the Councilman for the 4<sup>th</sup> ward. He said the City wants to allow property owners reasonable use of their property, but this use must be balanced with how it affects other properties in the vicinity. He pointed out the special exception criteria in the Zoning Regs. that must be met in order for this to be approved. He said he is concerned about relying on the State agency to enforce odor regulations because odor and noise are two of the most difficult things to regulate because they disappear. The opposition and concerns expressed by these neighbors have nothing to do with who the applicant is; this could get approved and then be sold to someone else. He asked that the Commission really look at the flow plan and the proposed design of the facility while keeping in mind the big picture. He said this could be affected by the weather or changes to the roadway. In closing he said it is a fine line to protect the neighbors while allowing someone to have profitable use of their property.

Annette Scully, 29 Beaver Brook Rd. said she has lived there for 55 years and is concerned about odor. She also is concerned about the value of their house and the already terrible traffic.

Attorney Jaber said due to the amount of answers then need to provide and the lateness of the hour, they will wait until the next meeting to rebut the opposition's comments. Mr. Urice reminded Atty. Jaber that the Commission had requested an interior floor plan of the building. Attorney Jaber said they would provide it at the next meeting.

Mr. Keller made a motion to continue the public hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

SSR Development LLC – Application for Special Exception for Storage or Sale of Building Materials, Storage of Construction Equipment and Warehouse in the IL-40 Zone – 90 Shelter Rock Rd. (#K14233) – SE #708.

Chairman Finaldi said he was not eligible to vote on this matter. All of the other members present were eligible. Mrs. Emminger reviewed some minor revisions that had been made to the resolution. She said it spells out exactly what extra things the applicant offered to do because if it isn't in there, they aren't bound by it. She said the ZEO also can add conditions when he issues the grading permit.

Mr. Urice made a motion to approve this per the amended resolution. Ms. Hoffstaetter seconded the motion and it was passed unanimously with four ayes (from Mr. Keller, Mr. Urice, Ms. Hoffstaetter and Mr. Cerminara).

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City of Danbury – Application for Floodplain Permit – “Ives Trail Terminus Improvements,” 169 Long Ridge Rd. (#J24004) – SP #11-02.

Mrs. Emminger explained that Jack Kozuchowski, as agent for the Ives Trail Task Force, submitted this application along with a site plan for a 3-space parking area for the Ives Trail Terminus. She said this property is under private ownership but as part of the site plan, the City is proposing to construct a pedestrian bridge and a horse bridge.

Mrs. Emminger continued saying that a portion of the property is located within the Unnumbered A Flood Zone of the West Redding Brook. The base flood elevations at the bridges have been established by Leggette, Brashears & Graham, Inc. The established elevation at the pedestrian bridge is 483.7 ft. and 487.5 ft. at the horse bridge. They used these elevations to ensure that the bottom of the bridge structures were positioned at least 1 foot above the 100-year flood elevation. The bottom elevations of the pedestrian and horse bridge structures will be at 485.0 ft. and 489.0 ft., respectively, in order to allow a one ft. minimum for floating debris. The lost floodplain storage volume has been calculated to be 1 cubic yard. This will be compensated by removing approximately 2 cubic yards of material on the west side of the stream at the horse bridge. Mr. Keller made a motion to approve this based on the information presented. Mr. Urice seconded the motion and it was passed unanimously.

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Sugar Hollow Associates LLC – Application for Revised Site Plan in acc. w/Sec. 10.D.7. of the Zoning Regulations for SE #663 originally approved 10/1/08 for “The Shops at Marcus Dairy”, Backus Ave. & Sugar Hollow Rd. (#G17002 & #G17019).

Mr. Keller made a motion to approve this per the resolution as presented. Mr. Cerminara seconded the motion and it was passed unanimously.

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NEW BUSINESS

Pitney Bowes – Application for Floodplain Permit – “Pitney Bowes”, 14 Executive Dr. (#L10015) – SP#99-13

Chairman Finaldi said this would be on file in the Planning Office.

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REFERRALS:

8-3a Referral – Petition of Scott Benincasa & David Benincasa to Amend Secs. 2.B. & 5.B.2. of the Zoning Regulations. (Add “Indoor Shooting Range” to CA-80 Zone) Zoning Commission public hearing scheduled for June 28, 2011.

Mrs. Emminger explained that Corporation Counsel is still reviewing the Planning Dept. staff report for this matter, so they do not have it for tonight. Also the public hearing date is listed wrong should table this.

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OTHER MATTERS

In January of this year, Mr. Urice mentioned a new statute governing recycling that he felt the Commission should be aware of. After some discussion, it was referred to Corporation Counsel's office to determine if the language should be included in their approvals. Mrs. Emminger said Deputy Planning Director Sharon Calitro and Assistant Corporation Counsel Robin Edwards reviewed Sec. 22a-207 of the CT General Statutes and determined that the following language should be added to all Special Exception and Site Plan approvals:

*“Bulk trash containers, dumpsters, receptacles and collection containers used for refuse collection and/or recyclables as required by Sec. 22a-207 et seq. of the CGS (the Solid Waste Management Act), as amended, shall meet all applicable requirements of the City of Danbury Zoning Regulations.”*

Mrs. Emminger said adding this to all approvals will ensure that applicants are made aware of this statutory requirement. Chairman Finaldi asked if they needed to take any action on this. Mrs. Emminger said no, it will just be added to the standard conditions of approval. Mr. Urice asked if it was added to the approvals they are looking at this evening and Mrs. Emminger said it is.

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There was nothing under Correspondence and under For Reference Only were listed four applications for Floodplain Permits.

At 11:00 PM, Mr. Urice made a motion to adjourn. Ms. Hoffstaetter seconded the motion and it was passed unanimously.